

JAN 22 1913

WM. B. ST. CLAY

Supreme Court of the United States

OCTOBER TERM, 1922.

THE PUSEY AND JONES COMPANY,
(a corporation),

Petitioner,

AGAINST

HANS KARLUF HANSSEN, ET AL.,
Respondents,

No. 431

Petition for
writ of Certi-
orari to the
United States
Circuit Court
of Appeals for
the Third Cir-
cuit.

REPLY OF RESPONDENTS TO REASONS AS- SIGNED FOR THE MOTION TO ADVANCE

On page three of the motion, petitioner states that it "was engaged in a profitable manufacturing business and there was no reason why it should not have continued to transact its business." A sufficient answer is that the petitioner filed its voluntary petition in bankruptcy within a few weeks after the filing of the bill of complaint. (Rec. pp. 580-602.)

On the same page, the petitioner sets forth six items of expense incurred by the receivers during the receivership. In brief explanation of the items the following may be said:—

The first item of \$38,000.00 represents \$2,000.00 a month paid to the Delaware receivers for nineteen months' service under the orders of the District Court. One item of that service was dispensing with two unnecessary officers of the Company who had been receiving \$19,500.00 a year.

The second item of \$20,000.00 represents fees to attorneys for receivers in successfully combatting continuous litigation instituted by the petitioner, which was concluded by the recent mandates of the Circuit Courts of Appeal for the Second and Third Circuits.

The third item of \$15,000.00 represents a fee authorized by the District Court of Delaware to attorneys engaged to prosecute the claim of \$14,000,000.00 against the Shipping Board for services rendered and to be rendered.

The fourth item of \$9,000.00 represents fees allowed incident to the dismissal of bankruptcy proceedings improvidently instituted in behalf of the petitioner. The ancillary receivers in this case in New Jersey have received no compensation.

The fifth item of \$15,000.00 was paid to an appraisal company to determine the important claim of amortization against the Shipping Board and to afford a basis for making the receivers' returns to the Internal Revenue department.

The sixth item of \$3,000.00 for "accountant's fees and miscellaneous" covers items not understood by the respondent.

On page four, petitioner states that "the receivers have spent at petitioner's plant at Gloucester, N. J.—which has not been in opera-

tion, about \$170,000.00." Of this sum \$53,400.00 represents an allowance to one receiver in bankruptcy, interest on mortgage and State taxes. The balance represents necessary upkeep of two large shipbuilding plants closed after the war. The previous bankruptcy receivership expenses were much greater, including the issuance of receiver's certificates for \$30,000.00, which remain unpaid, and allowance of \$30,000.00 to the bankruptcy receivers and their counsel. The expense account of the Delaware receivers at the Gloucester plant is \$4000 a month less than that of the bankruptcy receivers.

Depreciation of such plants is inevitable, and has been prolonged because of the vexatious litigation brought about by the petitioner.

On the same page, petitioner states "The result of the appointment of the Receivers has been disastrous to petitioner's business and has tied up the progress of readjustment." The receivership business has been conducted at a profit, and during the past year at a net profit of about \$50,000.00. The Wilmington yard during the receivership has been the busiest one on the Delaware River.

The petitioner's statement that the claim of \$14,000,000.00 against the Shipping Board was near settlement on June 9, 1921, is without foundation. The Shipping Board refused negotiation of the claim because its auditors could not complete their report before September, 1922. The Delaware receivers have negotiated settlements of two other disputed claims with the Shipping Board.

Finally, petitioner states that the receivers

have not pressed to have the Baltimore Dry Docks & Shipbuilding Company judgment set aside. The receivers obtained a rule to set aside this judgment and filed their affidavits and exhibits in support thereof. It became apparent to the receivers that the effective handling of this matter would have to be deferred until a final decree was entered in this suit. The petitioner is alone responsible for the delay incident to the entry of such a decree.

WILLIAM H. BUTTON,
JOHN P. NIELDS,
WILLIAM G. MAHAFFY,
Counsel for respondents.

January 20, 1923.